

REMARKS/ARGUMENTS

Claims 1-3 and 6-8 were rejected under 35 USC §103 as being obvious over US Pat. No. 5,742,957 to Vanzant (“Vanzant”) in view of U.S. Patent No. 6,209,159 to Murphy (“Murphy”) and U.S. Patent No. 6,113,188 to Stewart et al (“Stewart”). The propriety of the rejection of each claim will be addressed individually.

Claims 1 and 6

The Examiner states that Vanzant teaches a “one-piece inflatable bladder 1, 2.” However, it is clear from both the drawings (see any of FIGURES 3-12) and the specification (“The rear portion of the outer cavity 48 is divided from the center cavity 40 by an inner partition 120” (col. 6, lines 32-34 and “In a four cavity embodiment, as shown in FIG. 3 In a second embodiment, which has two internal cavities....” (col. 5, lines 19-25)) that Vanzant teaches at least a two-piece construction. The partition line clearly shows a demarcation between the two cavities, and the operation of the Vanzant device makes it clear it is not a one-piece inflatable bladder. However, the Vanzant and Stewart et al. references are not combinable because the Vanzant device is wholly incompatible with the theory of operation of the Stewart et al. device, and would indeed produce an inoperable result. See McGinley v. Franklin Sports Inc., 262 F.3d 1339 (Fed. Cir. 2001); In re Sponnoble, 405 F.2d 578 (C.C.P.A. 1969)(“ *references teach away from combination if the combination produces a seemingly inoperable device*”). The two cavities of Vanzant are shaped in the nature of a chair, even in the fully deflated state, and directly contact and conform to the buttocks and back of a user. Accordingly, as the Vanzant cavities inflate, their shape changes from a relatively thin, chair-like profile having a generally

level seat to a relatively thick, chair-like profile having a generally trapezoidal seat that shifts the user up and forward to a standing position. *See* Vanzant, Fig. 9a – 9d. In contrast the Stewart device operates through a set of scissor braces, which connect the base to the cover in an extendable/collapsible relation. The base and cover of Stewart enclose an expandable device having a generally rectangular top and bottom that are spaced apart and connected by accordion-like sides. Thus, the expandable device of Stewart is in the nature of a bellows. *See* Stewart et al., Fig. 1. Furthermore, the Stewart device relies solely on the scissor braces for lateral stability. Without these, the cover (and user) would simply fall off.

Furthermore, in order to render the Vanzant cavities able to open a Stewart base and cover, it would need to be converted from a chair-like shape having a fixed height and variable thickness to a variable height bladder having any arbitrary thickness. Thus, its redesign would be so substantial as to change the basic principles under which the Vanzant bladder was designed to operate. *See In re Ratti*, 123 USPQ 349, 352 (C.C.P.A. 1959)(“ *We hold, further, that the combination of Jepson with Chinnery et al. is not a proper ground for rejection of the claims here on appeal. This suggested combination of references would require a substantial reconstruction and redesign of the elements shown in Chinnery et al. as well as change in the basic principles under which the Chinnery et al. construction was designed to operate.*”).

The arguments made above regarding claims 1 and 6 apply equally to claims 2, 3, 7, and 8, and are incorporated herein by reference.

Claims 4, 5, 9, and 10 were rejected under 35 USC §103 as being obvious over Vanzant in view of Murphy and Stewart and further in view of U.S. Patent No. 6,264,279 to Chow (“Chow”). The propriety of the rejection of each claim will be addressed individually.

The Examiner states that “Chow shows ... a removable connecting means and contains material to minimize slippage.” However, nothing in Chow recites the cover containing material to minimize slippage. In fact, Chow states, “Bag 260, which is preferably constructed from a water resistant and low-friction material such as CORDURA....” (col. 8, lines 24-26). So, Chow actually states the opposite of a material to minimize slippage, but prefers a low-friction material.

Claims 1-3 and 6-8 were rejected under 35 USC §103 as being obvious over U.S. Patent No. 4,629,162 to Porche (“Porche”) in view of Murphy and Stewart. The propriety of the rejection of each claim will be addressed individually.

Claims 1 and 6

The Examiner claims that Porche teaches “a rectangular portion with a height appearing twice the height of the front portion upon full inflation.” Firstly, the claims require three times the height, and secondly, there is nothing in Porche which would lead one to conclude the rear portion is three (or even twice) the height of the front portion when fully inflated. In fact, Porche states, “For example, when inflated, the bag may have ... a height at the back of about 13 inches, and a height at the front of about 10 inches.” (col. 2, lines 22-27). This is 1.3 times the height, which is not even half of what is required in the claims. The arguments related to the

combination of Vanzant and Stewart apply equally to the combination of Porche and Stewart and are herein incorporated by reference.

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New claims 11-17 further distinguish the present invention from the cited references.

CONCLUSION

Applicant now believes that this amendment complies with 37 CFR § 1.121 and thus requests examination of this Amendment. Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

Respectfully submitted,

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